



**THE CORPORATION OF THE TOWN OF ESPANOLA**

**BYLAW NO. 2493/12**

**BEING A BYLAW TO PROVIDE FOR THE REGULATION OF OPEN AIR BURNING AND PRECAUTIONS TO BE TAKEN BY PERSONS SETTING FIRES**

**WHEREAS** Section 7.1 (1) of the Fire Prevention and Protection Act, S.O. 1997 as amended, provides that the Council may pass by-laws regulating the setting of open air fires, including establishing the times during which open air fires may be set; and

**WHEREAS** the Fire Prevention and Protection Act, S.O. 1997 provides that the Chief Fire Official is required to approve open air burning and appropriate fire safety provisions; and

**WHEREAS** Section 130 of the Municipal Act, S.O. 2001, provides that the Council may regulate matters related to the health, safety, and well-being of the inhabitants of the municipality; and

**WHEREAS** Section 129 of the Municipal Act, S.O. 2001, provides that Council can prohibit and regulate matters that it deems to be a public nuisance; and

**WHEREAS** Section 391 of the Municipal Act, S.O. 2001, provides that municipalities may pass by-laws imposing fees or charges on any class of persons for services or activities provided or done by or on behalf of it; and

**WHEREAS** Section 427 of the Municipal Act, S.O. 2001, provides that where a municipal council has the authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by by-law direct that, in default of its being done by the person directed or required to do it, such matter or thing shall be done at the person's expense and the corporation may recover the expense incurred in doing it by action or by adding the costs to the tax roll and collecting them in the same manner as taxes;

**NOW THEREFORE** the Council of the Corporation of the Town of Espanola hereby enacts as follows:

**1.0 DEFINITIONS**

For the purpose of this by-law the following definitions shall apply:

- 1.1 **"Campfire"** means a small fire set for the purpose of cooking. Can best be described as a fire no greater than 1 metre by 1 metre by 1 metre high; does not include barbeques.
- 1.2 **"Chief Fire Official"** means the Fire Chief as defined in the Fire Protection and Prevention Act or Designate;
- 1.3 **"Fire Ban"** means a complete ban of all open fires. A Fire Ban is enacted by the Chief Fire Official or Designate within the Municipality by the authority of the Fire Protection and Prevention Act.
- 1.4 **"Fire Department"** means the Town of Espanola Fire Department;
- 1.5 **"Fire Hazard, Low, Moderate, High or Extreme"** means a Low, Moderate, High or Extreme Fire Hazard as declared by the Chief Fire Official or designate.
- 1.6 **"Municipality"** means the Corporation of the Town of Espanola.
- 1.7 **"Municipal Employee"** means an officer, servant, or other employee of the municipality, including a volunteer fire fighter;
- 1.8 **"Open Air Fire"** means fires that are set outdoors and are not contained in the confines of a cooking device; fires that are set for the purpose of disposing of clean wood debris, including fires set in outside incinerators; Open Air Fires cannot be more than 2 metres in diameter by 2 metres high; and Open Air Fire does not include a campfire set for the purpose of cooking;
- 1.9 **"Person"** includes an association, firm, partnership, or corporation.
- 1.10 **"Incinerator"** means a completely self-contained furnace for destroying trees, branches and clean wood waste and used to burn them to ash. Must have a chimney twenty (20) ft. high and be securely supported.

## 2.0 GENERAL BURNING RESTRICTIONS

- 2.1 No person shall start a fire outdoors unless conditions will allow the fire to burn safely from ignition to extinguishment.
- 2.2 No person shall set any fire outdoors in the Town except in the presence of a competent responsible adult person and a competent responsible adult person shall be constantly in attendance and in charge of any burning operation to prevent the same from spreading to or endangering property.
- 2.3 Any person who starts a fire outdoors or, if the person who started the fire is not present, a person in charge of a fire outdoors shall take all necessary steps to tend the fire, keep the fire under control, and extinguish the fire before leaving the site.
- 2.4 No person shall start any fire to burn, or shall burn outdoors, any household kitchen garbage or construction materials or other materials made of or containing rubber, plastic, paint, petroleum, tar, chemical wastes, pressure treated wood, synthetic or man-made materials or any other materials considered to create excessive smoke or smell; such items shall be taken to the landfill site for disposal.
- 2.5 No person shall start or tend any fire outdoors when the wind conditions are such that it may cause any of the following:
  - 2.5.1 A decrease in visibility on any highway or road;
  - 2.5.2 The rapid spread of fire through grass, brush, forested area or other property that was not intended to be burned;
  - 2.5.3 An adverse impact on other people or property;
  - 2.5.4 The contravention of any municipal law, provincial or federal legislation.
- 2.6 No person shall start or tend a fire outdoors during a period of Extreme Fire Hazard.
- 2.7 Notwithstanding any provisions herein, no person shall set or maintain a fire:
  - 2.7.1 In contravention of the Ontario Fire Code, the Environmental Protection Act, or any other statutory requirements of the Province of Ontario, or the Government of Canada;
  - 2.7.2 On any highway, or municipal property within the Municipality;
  - 2.7.3 On any asphalt surface;
  - 2.7.4 In any park owned or operated by the Municipality without the written permission of the Municipality;
- 2.8 No person shall start or tend an open-air fire during a municipal fire ban or a restricted fire zone.

## 3.0 CONDITIONS FOR OPEN AIR BURNING

- 3.1 Except as provided in Section 4.1 of this By-law, no person shall start or tend a fire outdoors unless all of the following conditions are met:
  - 3.1.1 the person is burning clean wood, brush, leaves or discarded wood by-products;
  - 3.1.2 a responsible person is present to tend and supervise the fire until it is completely extinguished;
  - 3.1.3 the material is burned in a single pile that is less than 2 metres in diameter and less than 2 metres high;
  - 3.1.4 the fire is started not earlier than 7:00 p.m. in the evening and extinguished not later than 8:00 a.m. the following day or earlier;
  - 3.1.5 the fire is at least ten (10) metres from any combustible structures or objects;
  - 3.1.6 the person tending the fire has tools or water adequate to contain the fire within the fire site;
  - 3.1.7 the Chief Fire Official has declared that there is a Low Fire Hazard or Moderate Fire Hazard;

- 3.1.8 Open Air Fires are not permitted if the Chief Fire Official has declared a High or Extreme Fire Hazard;
- 3.1.9 the person responsible for the fire, shall give notification to the Fire Department and obtains a Fire Permit from the Fire Department;
- 3.1.10 Section 2.7 of this By-law also applies to this Section;
- 3.1.11 Open Air Fires are not permitted in heavily populated areas of the Town of Espanola.
- 3.1.12 Special provisions for open air burning may be granted at the discretion of the Chief Fire Official or designate during the day, between November 1<sup>st</sup> and February 28<sup>th</sup> for the purpose of cleaning up brush, in order to reduce the fire hazard during the fire season. The following conditions are required:
  - a) An accumulation of a minimum of 5 cm of snow is on the ground;
  - b) A burning permit has been issued;
  - c) A responsible person is present to tend and supervise the fire until it is completely extinguished;
  - d) The smoke does not cause adverse impact on other people or property;
  - e) The brush pile is less than 3 metres in diameter and less than 2 metres high
- 3.2 No person shall make or tend a fire in an incinerator unless all of the following conditions are met:
  - 3.2.1 the person is burning clean wood, brush leaves, or discarded wood by-products;
  - 3.2.2 the incinerator is an enclosed device constructed entirely of non-combustible material;
  - 3.2.3 the incinerator is placed on base mineral soil, bare rock, concrete or non-combustible material of at least 4 cm. (2") thickness, extending a minimum of 30 cm. (12") beyond perimeter.
  - 3.2.4 The incinerator is at least eight (8) metres away from any of the following combustibles: a) forest, b) woodland c) building/structures;
  - 3.2.5 The incinerator is at least eight (8) metres away from any flammable materials;
  - 3.2.6 The outlet of the incinerator is covered with a screen having a mesh size of not more than five (5) millimetres (1/4");
  - 3.2.7 A responsible person is present to tend and supervise the fire until it is completely extinguished;
  - 3.2.8 The fire is started not earlier than 7:00 p.m. in the evening and extinguished not later than 8:00 a.m. the following day or earlier;
  - 3.2.9 The Chief Fire Official has declared that there is a Low Fire Hazard or Moderate Fire Hazard;
  - 3.2.10 Incinerator fires are not permitted if the Chief Fire Official has declared an Extreme Fire Hazard;
  - 3.2.11 The smoke does not cause an adverse impact on other people or property.
  - 3.2.12 Section 2.7 of this By-law also applies to this Section.
- 3.3 No person shall start or tend a fire outdoors in the Town of Espanola, for the purpose of burning grass or leaf litter.
- 3.4 The Chief Fire Official may, in extenuating circumstances for major projects or activity not previously considered, authorize in writing a person to burn under conditions other than those permitted in Sections 3.1, 3.2 and 3.3 of this By-law.

#### **4.0 CAMPFIRES FOR COOKING**

- 4.1 No person shall start or tend a campfire outdoors for the purpose of cooking unless all of the following conditions are met:
- 4.1.1 the fire does not exceed 1 metre in diameter and 1 metre in height;
  - 4.1.2 a responsible person is present to tend the fire until the fire is extinguished;
  - 4.1.3 the person tending the fire has tools and/or water adequate to contain the fire within the fire site;
  - 4.1.4 the fire shall be surrounded by at least 1 metre of non-combustible material;
  - 4.1.5 the fire shall be at least eight (8) metres from any combustible material and/or structures;
  - 4.1.6 a municipal fire ban or restricted fire zone is not in effect;
  - 4.1.7 it does not cause an adverse impact on other people or property;
  - 4.1.8 the outlet of the incinerator is covered with a screen having a mesh size of not more than five (5) millimetres (1/4").
  - 4.1.9 the fire is started not earlier than 7:00 p.m. and extinguished no later than 8:00 a.m. the following day or earlier.

#### **5.0 FIRE DEPARTMENT EXEMPT**

- 5.1 Any fires under the direct and constant supervision and control of the Town of Espanola Fire Department are exempt from the provisions of this By-law.

#### **6.0 ENFORCEMENT, PENALTY AND RECOVERY OF COSTS**

- 6.1 The Chief Fire Official, Deputy Fire Chief and By-law Enforcement Officer are hereby authorized to enforce the provisions of this By-law pursuant to the Provincial Offences Act.
- 6.2 Pursuant to Section 7.4 (4) of the Fire Protection and Prevention Act, the Chief Fire Official or designate may enter upon land and into structures at any reasonable time to inspect the land and structures to determine whether this By-law is being complied with.
- 6.3 Every person who contravenes or fails to comply with any of the provisions of this By-law is guilty of an offence and on conviction is liable to the fines and other penalties prescribed by the Provincial Offences Act.
- 6.4 The Chief Fire Official or designate may at their discretion, issue a first time warning if the person or persons setting out the fire agrees to immediately extinguish the fire.
- 6.5 The fire department may invoice the person or persons responsible for setting the fire to recover the costs associated with extinguishment of an open air fire, which has been lit in contravention of this Bylaw, at the Ministry of Natural Resources rates. These costs are above any set fines.

#### **7.0 ADMINISTRATION**

- 7.1 This By-law applies to the entire geographic area of the municipality.
- 7.2 This By-law shall come into effect upon receipt of approval of Schedule 'A' Short Form Wording/Set Fines by the Ontario Court of Justice.
- 7.3 Bylaw No. 2374/11 is hereby repealed as per the conditions of Section 7.2 above.

Read a first, second and third time and passed in open Council on the 11<sup>th</sup> day of December 2012.

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Mike Lehoux  
Mayor

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Cynthia Townsend  
Clerk Treasurer/Administrator



**Schedule 'A'**  
**PART I Provincial Offences Act**

**Bylaw 2493/12, Regulate Open Air Burning**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Offence Creating Provision</b>	<b>COLUMN 3 Set Fine</b>
1	Fail to have a responsible adult person in attendance	Section 2.2	\$ 125.00
2	Fail to supervise/control fire	Section 2.3	\$ 125.00
3	Burn prohibited material(s)	Section 2.4	\$ 125.00
4	Burn during windy conditions	Section 2.5	\$ 125.00
5	Burn during Extreme Fire Hazard	Section 2.6	\$ 125.00
6	Burn on highway/municipal property	Section 2.7.2	\$ 125.00
7	Failure to have a responsible person present to supervise fire until completely extinguished.	Section 3.1.2	\$ 125.00
8	Burn pile in excess of 2 m in diameter	Section 3.1.3	\$ 125.00
9	Burn pile in excess of 2 m in height	Section 3.1.3	\$ 125.00
10	Burn after 8:00 a.m. and before 7:00 p.m.	Section 3.1.4	\$ 125.00

NOTE: The penalty provision for the offences indicated above is Section 6 of Bylaw 2493/12, a certified copy of which has been filed.



**PART I Provincial Offences Act**

**Bylaw 2493/12, Regulate Open Air Burning**

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Offence Creating Provision</b>	<b>COLUMN 3 Set Fine</b>
11	Burn during High or Extreme Fire Hazard	Section 3.1.8	\$ 125.00
12	Failure to obtain a fire permit.	Section 3.1.9	\$ 125.00
13	Incinerator not enclosed.	Section 3.2.2	\$ 125.00
14	Incinerator constructed of combustible material	Section 3.2.2	\$ 125.00
15	Incinerator closer than eight (8) metres to combustibles.	Section 3.2.4	\$ 125.00
16	Screen having a mesh size of more than 5 mm (1/4")	Section 3.2.6	\$ 125.00
17	Failure to have a responsible person present to supervise fire until completely extinguished.	Section 3.2.7	\$ 125.00
18	Burn incinerator after 8:00 a.m. and before 7:00 p.m.	Section 3.2.8	\$ 125.00
19	Incinerator fire during Extreme Fire Hazard.	Section 3.2.10	\$ 125.00
20	Smoke causes adverse impact.	Section 3.2.11	\$125.00

NOTE: The penalty provision for the offences indicated above is Section 6 of Bylaw 2493/12, a certified copy of which has been filed.

**PART I Provincial Offences Act**

**Bylaw 2493/12, Regulate Open Air Burning**

ITEM	COLUMN 1 Short Form Wording	COLUMN 2 Offence Creating Provision	COLUMN 3 Set Fine
21	Burning grass or leaf litter.	Section 3.3	\$ 125.00
22	Campfire in excess of 1 m in diameter.	Section 4.1.1	\$ 125.00
23	Campfire in excess of 1 m in height.	Section 4.1.1	\$ 125.00
24	Campfire not surrounded by at least 1 metre of non-combustible material	Section 4.1.4	\$125.00
25	Campfire not at least 8 metres from any combustible material.	Section 4.1.5	\$125.00
26	Campfire not at least 8 metres from any combustible structures.	Section 4.1.5	\$125.00
27	Campfire during fire ban.	Section 4.1.6	\$ 125.00
28	Causing adverse impact on other people or property.	Section 4.1.7	\$ 125.00
29	Screen having a mesh size of more than 5 mm (1/4").	Section 4.1.8	\$ 125.00
30	Campfire outdoors after 8:00 a.m. and before 7:00 p.m.	Section 4.1.9	\$125.00

NOTE: The penalty provision for the offences indicated above is Section 6 of Bylaw 2493/12, a certified copy of which has been filed.